REMARKS

Applicants have amended claims 60 and 80 to add the word "*ex vivo*" as supported on page 24, line 32, for example. The amendment addresses both the newly raised 101 rejection and the newly raised Section 103 rejections. Entry of the amendments under Rule 116 is earnestly requested in that those amendments could not have been made earlier, since they address new rejections raised for the first time in the outstanding, final office action. Moreover, the amendments place the claims in better condition for allowance or for consideration on appeal.

Objection to the specification

The disclosure is objected to; the Examiner states that at page 1, line 10, the current status of USSN 09/483,588 must be indicated. The specification is amended herein to refer to the issued parent patent.

Reconsideration and withdrawal of the objection is respectfully requested.

Section 101 and Section 112, first paragraph

Claims 60-63 and 80-82 are rejected under 35 USC Section 101 and Section 112, first paragraph as allegedly lacking a specific and substantial asserted utility or a well established utility.

The Examiner urges that while applicant has disclosed that noncovalent complexes of the variant polypeptide and the FcγR allotype would occur *in vivo*, upon administration of the variant polypeptide to a subject, and while applicant has formed such noncovalent complexes in examples directed to evaluating the binding affinity of the polypeptide to the receptor, he asserts that applicant has disclosed no utility for such noncovalent complexes.

Claims 60 and 80 are amended herein to refer to the variant polypeptide complexed "*ex vivo*" to an FcγR allotype or an extracellular domain thereof (claim 60), or to FcγRIIIA-Phe158 or an extracellular domain thereof (claim 80).

The variant polypeptide complexed *ex vivo* to the FcγR allotype or ECD thereof clearly has utility for "evaluating the binding affinity of the polypeptide to

the receptor" as exemplified and taught elsewhere in the specification (see especially pages 38-40). Applicants submit that such use of the variant polypeptide complexed with the FcγR or ECD thereof represents a specific and substantial asserted utility that satisfies the requirements of the statute. Reconsideration and withdrawal of the Section 101 and 112, first paragraph rejections is respectfully requested.

Section 102 and 103

Claims 60-63 and 80-82 are rejected under 35 USC Section 102(b) or 102(e) as being anticipated, or in the alternative, under 35 USC Section 103(a) as obvious over Idusogie *et al.* WO99/51642 or US Patent No. 6,242,195. Claims 60-63 and 80-82 are rejected under 35 USC Section 102(e) as being anticipated by, or in the alternative, under 35 USC Section 103(a) as obvious over Idusogie *et al.* US Patent No. 6,528,624.

The rejection is made on the basis that the complex may occur with *in vivo* use, and that the cited Idusogie patent references teach *in vivo* use. Applicants submit that the rejections under 35 USC Section 102 or 103 are obviated by the amendment of claims 60 and 80 herein to refer to the variant polypeptide complexed "*ex vivo*" to an FcγR allotype or an extracellular domain thereof (claim 60), or to FcγRIIIA-Phe158 or an extracellular domain thereof (claim 80).

Reconsideration and withdrawal of the Section 102 and 103 rejections is respectfully requested.

Respectfully submitted,
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